

UNITED STATES DISTRICT COURT

APR 12 2018

for the
District of New MexicoMATTHEW J. DYKMAN
CLERKIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Manuel Chavez
Date of Birth: XX/XX/1971
SSN: XXX-XX-6087

Case No. 18mr 306

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the _____ District of _____ New Mexico (identify the person or describe property to be searched and give its location): The person known as Manuel Chavez, Date of Birth: XX/XX/1971, SSN: XXX-XX-6087

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized): DNA evidence; to wit; Buccal cell swab, sufficient for DNA analysis, which would be material evidence in a criminal prosecution.

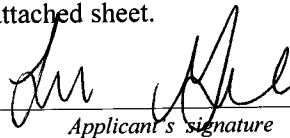
The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 18 U.S.C. § 922(g)(1), and the application is based on these facts: See Attached

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signatureLisa Gaul, Special Agent ATF
Printed name and title

Sworn to before me and signed in my presence.

Date: 4/12/18


Judge's signature

City and state: Albuquerque, NM

Kirtan Khalsa, United States Magistrate Judge
Printed name and title

AFFIDAVIT FOR SEARCH WARRANT

1. I, Lisa Gaul, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:
2. I am a Special Agent within the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I have been employed with ATF since March of 2014. I am an investigative, or law enforcement officer of the United States, within the meaning of Title 18, United States Code, Section 2510 (7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18 and 26, United States Code. I am currently assigned to the ATF Albuquerque Field Office.
3. Through the ATF, I have received specialized training in the enforcement of federal firearms, explosives, and arson laws. I have successfully completed the Criminal Investigator Training Program and the Special Agent Basic Training at the Federal Law Enforcement Training Center in Glynco, Georgia that certified me as a Special Agent with ATF. In connection with my official duties, I have been involved in numerous investigations of persons who are prohibited from lawfully possessing firearms, ammunition and narcotics. I have experience in the execution of arrest and search warrants, surveillance, analysis and processing of documentary, electronic, and physical evidence and debriefings and interviews of defendants, suspects, witnesses, victims and informants. I have testified in judicial proceedings in federal court involving prosecutions relating to violations of federal firearms laws.
4. Prior to being employed with the ATF, I was employed as a United States Border Patrol Agent from March 2007 to March 2014. During my employment with the U.S. Border Patrol, I was assigned to the Drug Enforcement Agency (DEA) from November 2010 to November 2012.
5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

IDENTIFICATION OF THE INDIVIDUAL TO BE SEARCHED

6. The individual to be searched is Manuel CHAVEZ with a date of birth of XX/XX/1971 and a Social Security Number of XXX-XX-6087. He is further described as a Hispanic male, approximately 5'08" tall and 170 pounds in weight. (See Attachment A).
7. Manuel CHAVEZ is currently incarcerated at the Sandoval County Detention Center located in Bernalillo, New Mexico.
8. Manuel CHAVEZ is known by your affiant due to previous interaction that your Affiant had with CHAVEZ.

9. The applied-for warrant would authorize the taking of buccal cells from Manuel CHAVEZ, with the use of oral swabs, which would then be forwarded to a law enforcement forensic laboratory for DNA analysis.

PROBABLE CAUSE

10. On January 8, 2018 at approximately 12:06 AM, Bernalillo County Sheriff's Office (BCSO) Deputy Erick Castaneda, while on a traffic stop at Central Ave and Estancia, observed a brown sedan (NM license plate # PGX729) run a stop sign near Central Ave. NW and 60th St. NW in Albuquerque, New Mexico. Deputy Castaneda conducted a traffic stop on the brown sedan at a gas station located at 201 Coors Blvd SW. As Deputy Castaneda approached the vehicle, he observed the white male driver make gestures as if the driver was reaching underneath the seat. Deputy Castaneda further observed that the driver was alone, except for a dog in the car, and the driver was wearing a red and white Redskins beanie and a camouflage-type jacket. When Deputy Castaneda reached the trunk of the brown sedan, it fled at a high rate of speed. Deputy Castaneda followed the vehicle, which eventually parked at 217 Knotts Landing Ct. NW, Albuquerque, NM.
11. Once Deputy Castaneda was behind where the vehicle was left, Deputy Castaneda observed that there was no one in the vehicle except for the dog. More BCSO Deputies arrived and a perimeter was set up in order to find the driver who had fled on foot. The driver, later identified as Manuel CHAVEZ, was located and he was next to the red and white Redskins beanie and a camouflage-type jacket that Deputy Castaneda has observed on the initial traffic stop.
12. BCSO Deputy L. Chavez responded to the brown sedan that had fled from Deputy Castaneda on a traffic stop and was located at 217 Knotts Landing Ct. NW. Upon Deputy L. Chavez's arrival at the scene, he observed the brown sedan to be rocking and the engine revving. Deputy L. Chavez observed through the closed window of the brown sedan that the vehicle was still in drive. Deputy L. Chavez opened the driver's side door, which was unlocked, and put his foot on the brake and put the brown sedan into park. As Deputy L. Chavez was closing the door, he observed a black grip to a firearm on the floorboard on the driver's side. Deputy L. Chavez at that time notified Deputy Castaneda of the discovery.
13. The firearm and ammunition were identified as an Amadeo Rossi S.A. model M68, .38 special caliber revolver bearing serial number AA500537 along with four (4) rounds of Winchester brand .38 special ammunition. One (1) .38 special caliber casing was also recovered.
14. Your Affiant determined that CHAVEZ was previously convicted of the following felony crimes: Conspiracy to Commit Trafficking a Controlled Substance under court case D-101-CR-199900024, Auto Burglary and Shoplifting under court case D-202-CR-200404474, Aggravated Battery with a Deadly Weapon under court case D-202-CR-1999703957, Conspiracy to Commit Armed Robbery, Aggravated Battery (Great Bodily Harm) and Conspiracy to Commit Aggravated Battery under court case D-202-CR-

199001481 and Robbery, Conspiracy to Commit Child Abuse (Negligently Caused) (No Death or Great Bodily Harm) and Tampering with Evidence under court case D-202-CR-200404657.

15. Your Affiant knows it is common for an individual's DNA to be transferred to items handled by that individual; in this case, the items are a firearm and ammunition. Based upon these facts, your Affiant respectfully requests that a search warrant be issued for Manuel CHAVEZ, to collect a sample of buccal cells for forensic analysis and for use as evidence in court as your Affiant opines there is probable cause to suggest Manuel CHAVEZ previously and unlawfully handled the above firearm and ammunition.

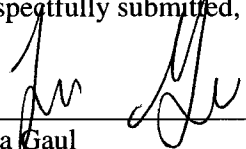
TECHNICAL TERMS

16. Based on my training and experience, your affiant used the following technical terms to convey the following meanings:
- a. DNA (deoxyribonucleic acid) carries design information between generations, and thus accounts for inherited biological traits (phenotypes). At conception, a father's sperm injects a set of DNA molecules into a mother's egg, which already contains a nearly matching set. Those molecules contain the designs for all the material components their child needs for growth, development, and daily living.
 - b. Buccal: pertaining to the inside of the cheek, the surface of a tooth, or the gum beside the cheek.
17. Based on my training, experience, research, and from consulting with individuals employed by forensic laboratories, it is common for individuals to transfer biological materials containing their specific DNA on the objects handled by those individuals.

CONCLUSION

18. I submit that this affidavit supports probable cause for a search warrant authorizing the collection of buccal cells for forensic analysis from Manuel CHAVEZ to determine specific DNA for comparison with specific DNA recovered from the above-described firearm and ammunition and other recovered evidence for use as evidence in court.

Respectfully submitted,



Lisa Gaul
Special Agent
ATF

Subscribed and sworn to before me
on April 12, 2018:

A handwritten signature in black ink, appearing to read "Kirtan Khalsa", written over a horizontal line.

Kirtan Khalsa
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

The individual to be searched is Manuel Chavez with a date of birth of XX/XX/1971 and a Social Security Number of XXX-XX-6087. He is further described as a Hispanic male, approximately 5'08" tall and 170 pounds in weight. This warrant authorizes the taking of buccal swabs from Manuel Chavez containing DNA material for the purpose of conducting forensic examinations to establish evidence of violations of the federal statutes described in Attachment B.

ATTACHMENT B

All evidence derived from the forensic analysis of submitted DNA to establish violations of the following by Manuel Chavez:

18 U.S.C. §§ 922(g)(1) and 924(a)(2), Felon in Possession of a Firearm and Ammunition. It shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year.